

CHARTER
OF THE
Town of Forest Heights

PRINCE GEORGE'S COUNTY, MARYLAND

*As found in the 1967 Supplement to the
Public Local Laws of Prince George's County
1963 Edition, as amended*

(Reprinted November 2014)

The Department of Legislative Services
General Assembly of Maryland
prepared this document.

For further information concerning this document contact:

Library and Information Services
Office of Policy Analysis
Department of Legislative Services
90 State Circle
Annapolis, Maryland 21401

Baltimore Area: (410-946-5400) Washington Area: (301-970-5400)

Other Areas: (1-800-492-7122)

TTY: (410-946-5401) (301-970-5401)

TTY users may also contact the
Maryland Relay Service to contact the General Assembly

E-mail: libr@mlis.state.md.us

Home Page: <http://mgaleg.maryland.gov>

The Department of Legislative Services does not discriminate on the basis of age, ancestry, color, creed, marital status, national origin, race, religion, gender, gender identity, sexual orientation, or disability in the admission or access to its programs, services, or activities. The Department's Information Officer has been designated to coordinate compliance with the nondiscrimination requirements contained in Section 35.107 of the Department of Justice Regulations. Requests for assistance should be directed to the Information Officer at the telephone numbers shown above.

CONTENTS

General Corporate Powers

Section

- 33-1. Incorporated; general powers.

Corporate Limits

- 33-2. Boundaries; described.

The Council

- 33-3. Number; selection; term.
33-4. Qualifications.
33-5. Salary.
33-6. Meetings.
33-7. Council to be judge of qualifications of its members.
33-8. President.
33-9. Quorum.
33-10. Procedure.
33-11. Vacancies.
33-12. Ordinances.
33-13. Referendum.
33-14. Files of ordinances.

The Mayor

- 33-15. Selection and term.
33-16. Qualifications.
33-17. Salary.
33-18. Powers and duties.
33-19. Vacancy.

General Powers

- 33-20. Listed.
33-21. Exercise of powers.
33-22. Enforcement of powers.

Registration, Nominations, and Elections

- 33-23. Voters.

- 33-23A. Absentee Balloting.
- 33-24. Board of Elections.
- 33-25. Same; removal.
- 33-26. Same; duties.
- 33-27. Notices.
- 33-28. Time and Place of Registration.
- 33-29. Appeals.
- 33-30. Election wards.
- 33-31. Nominations.
- 33-32. Election of Mayor.
- 33-33. Election of Councilmen.
- 33-34. Conduct of elections.
- 33-35. Special elections.
- 33-36. Vote count.
- 33-37. Preservation of ballots.
- 33-38. Regulation and control.
- 33-39. Penalties.

Finance

- 33-40. Treasurer; appointment, compensation.
- 33-41. Same; powers and duties.
- 33-42. Same; bond.
- 33-43. Fiscal year.
- 33-44. Budget; preparation.
- 33-45. Same; adoption.
- 33-46. Appropriations.
- 33-47. Transfer of funds.
- 33-48. Over-expenditures forbidden.
- 33-49. Appropriations lapse.
- 33-50. Checks.
- 33-51. Taxable property.
- 33-52. Budget authorizes levy.
- 33-53. Notice of tax levy.
- 33-54. When taxes are overdue.
- 33-55. Tax sales.
- 33-56. Fees.
- 33-57. Audits.
- 33-58. Tax anticipation borrowing.
- 33-59. General obligation borrowing power.
- 33-60. Referendum on storm drainage improvements.
- 33-61. Payment of indebtedness.
- 33-62. Previous issues.
- 33-63. Purchases and contracts.

Personnel

- 33-64. Town Clerk.
- 33-65. Town Attorney.
- 33-66. Other personnel.
- 33-67. Merit system.
- 33-68. Retirement system.
- 33-69. Compensation of employees.
- 33-70. Employees' benefit programs.
- 33-71. Conflicts of interest.

Public Ways and Sidewalks

- 33-72. Public ways; definition.
- 33-73. Same; control.
- 33-74. Same; powers.
- 33-75. Sidewalks.
- 33-76. Petitions for public improvements.

Storm Water Sewers

- 33-77. Storm water sewers.

Special Assessments

- 33-78. Powers.
- 33-79. Procedures.

Town Property

- 33-80. Acquisition; possession; disposal.
- 33-81. Condemnation.
- 33-82. Town buildings.
- 33-83. Protection.

General Provisions

- 33-84. Oath of office.
- 33-85. Surety bonds.
- 33-86. Prior rights and obligations.
- 33-87. Misdemeanors.
- 33-88. Gender.
- 33-89. Effect of charter on existing ordinances.
- 33-90. Definitions.
- 33-91. Separability provisions.

FOREST HEIGHTS

(See note (1))

General Corporate Powers

Section 33-1. Incorporated; general powers.

The inhabitants of the Town of Forest Heights within the corporate limits legally established from time to time are hereby constituted and continued a body corporate by the name of "The Town of Forest Heights" with all the privileges of a body corporate, by that name to sue and be sued, to plead and be impleaded in any court of law or equity, to have and use a common seal and to have perpetual succession, unless the Charter and the corporate existence are legally abrogated. (Ch. Res. No. 1, August 21, 1963, sec. 1.)

Corporate Limits

Section 33-2. Boundaries; described.

(a) *Filing.* The courses and distances showing the exact corporate limits of the Town shall be filed at all times with the Clerk of the Circuit Court of Prince George's County, the Commissioner of the Land Office, the Director of the Department of Legislative Reference, and the Secretary of State of Maryland.

A copy of the courses and distance describing the corporate boundaries shall be on file in the office of the Mayor or of the Town Clerk. All the officials named in this section are hereby directed to file or record all such descriptions of corporate boundaries so filed with them, each in a suitable book or place, properly indexed and reasonably available for public inspection during normal business hours.

The boundaries of the Town of Forest Heights shall be as follows:

(b) *Original boundaries.* The original corporate boundaries:

(1) Being all of those tracts of land comprising Sections Two (2), Three (3), Four (4), Five (5), Six (6), and Seven (7), of the subdivision known as Forest Heights, Prince George's County, Maryland, as per plat thereof duly recorded among the Plat Records of said county as follows:

Section 2, Forest Heights, B. B. No. 8, Folio 43.

Section 3, Forest Heights, B. B. No. 9, Folio 77.

Section 4, Forest Heights, B. B. No. 10, Folio 13.

Section 5, Forest Heights, B. B. No. 10, Folio 14.

Section 6, Forest Heights, B. B. No. 10, Folio 24.

Section 7, Forest Heights, B. B. No. 10, Folio 51.

(2) Also that parcel of land bounded on the East by the Indian Head Highway, on the south and southeast by the Parkway Drive and the intersection of Parkway Drive with the Indian Head Highway, on the west by the boundaries of the rear line of the lots of block (C), Section 2 on Parkway Drive, and on the north by the northern boundary, extended east, of the rear line of the lots of Block (C), Section 2 on Huron Drive.

(3) Also that parcel of land east of the Indian Head Highway, south of Livingston Road, and bounded on the east and south by Sections 5 and 6, as specified above. For the purposes of incorporation all the above tracts of land shall be regarded as contiguous, so that if gaps or islands should be found between them as a result of resurveys or surveyor's mistakes or inaccuracies, such gaps and islands shall be part of the incorporated area.

(c) *First extension.* The boundaries of the Town of Forest Heights are hereby extended to include the following three parcels of land.

(1) Beginning for the same at the intersection of the Westerly and Southerly outline of Section 7 in the Subdivision of Forest Heights as per plat thereof recorded among the Land Records of Prince George's County, Maryland in Plat Book B. B. 10, Folio 51 and running thence (1) N. 87° 46' 30" W. 361.32 ft., thence with the Eastern line of the United States Government Hospital land to wit: (2) N. 11° 6' 20" E. 184 ft. (3) N. 1° 31' 20" E. 231. ft. (5) N. 39° 42' 40" W. 346.50 ft. (6) N. 49° 13' 40" W. 297.00 ft. (7) N. 5° 1' 20" E. 242.88 ft. (8) N. 25° 28' 40" W. 423.72 ft. thence leaving the said Hospital lands (9) N. 46° 08' 20" E. 413.27 ft. (10) S. 43° 51' 40" E. 865.31 ft. (11) S. 13° 10' 30" E. 1185.15 ft. (12) S. 6° 43' 30" W. 364.43 ft. to the place of beginning, containing 25,4142 acres more or less, as per plat and survey made by Charles W. Menard, Surveyor, December, 1952.

(2) Beginning for the same in the East line of the Prince George's County School holdings at the North line of Block C, Section 2 of the Subdivision of Forest Heights as incorporated under Chapter 142 of the Acts of the General Assembly of Maryland in the year 1949 and running thence (1) N. 15° 18' W. 80 ft. (2) N. 74° 42' E. 4.33 ft. (3) N. 15° 18' W. 371.47 ft. thence leaving the aforementioned East boundary of the School property (4) N. 75° 15' 15" E. 50 ft. (5) S. 15° 18' E. 241.02 ft. (6) N. 74° 42' E. 566.41 ft. (7) thence with the arc of a curve 29.19 ft. drawn to a radius of 390 ft. and having a delta angle of 18° 27' 20" and curving from Northerly to Easterly, thence (8) with the arc of a curve 29.83 ft. drawn to a radius of 22.54 ft. and curving from Northerly to Westerly, thence (9) N. 74° 42' E. 185.19 ft. (10) S. 6° 25' 40" 80.97 ft. thence (11) with the arc of a curve 28.32 ft. drawn to a radius of 20 ft. and curving from Northerly to Westerly, thence (12) S. 74° 42' W. 77.16 ft. (13) thence 109.48 ft. with the arc of a curve drawn to a radius of 340 ft., and having a delta angle of 18° 27' 20" and curving from Westerly to

Southerly, thence (14) S. 6° 25' 40" E. 164.48 ft. to the North boundary line of Block C, Section 2 of Forest Heights Subdivision aforementioned and with said North boundary line (15) S. 74° 42' W. 611.18 ft. to the place of beginning and containing.....acres, more or less, as per plat and survey made by Charles W. Menard, Surveyor, December, 1952.

(3) Beginning for the same at a point on the East side of the Indian Head Naval Reservation Access Road, said point at being at the Southwest corner of Lot No. 3, Block V, Section 5 of Forest Heights, said Section 5 being recorded among the Plat Records of Prince George's County, Maryland in Plat Book B.B. No. 10, page 14, Section 5 being also cited in Section 2, House Bill No. 119, Chapter 142, an Act to incorporate The Town of Forest Heights, Maryland, said point of beginning being also at the Northwest corner of Lot No. 1, Block 3, Section 8 "Forest Heights" as recorded among said Plat Records in Plat Book W.N.W. 20, page 9A, thence leaving said road and running with the divisional line between Sections 5 and 8, which divisional line is also the present south boundary of Forest Heights, South 89 degrees 20 minutes 50 seconds East 453.67 feet to the Southeast corner of Lot 3, Block U, Section 5 of said Forest Heights, thence continuing with the divisional line between said Sections 5 and 8, being the present east boundary line of Forest Heights, North 00 degrees 35 minutes West approximately 667 feet to a stone at the North corner of the lot now owned by the Washington Suburban Sanitary Commission, said stone being the beginning point of the First Parcel described in a deed dated April 16, 1951 and recorded among the Land Records of Prince George's County, Maryland, in Liber 1355 at folio 144 whereby the property was conveyed to William S. Banks and C.E. Banner by Oxon Hills, Inc., thence running with the 9th or last line of said conveyance reversed South 48 degrees 49 minutes East 829.60 feet to a gas pipe, thence continuing South 48 degrees 49 minutes East 26.40 feet to an old granite stone marked "B Cantor," said granite stone being the beginning point of the Second Parcel described in said conveyance and known as Lot No. 8, "Oxon Hill Manor," thence running with the lines of Lot No. 8 reversed the 8 following courses and distances (1) North 74 degrees East 57 1/12 perches (914.9 feet), (2) South 28 degrees 30 minutes East 8 perches (132 feet), (3) South 19 degrees 30 minutes East 26 perches (429 feet), (4) South 2 degrees 30 minutes East 29 1/2 perches (486.75 feet), (5) South 81 degrees 30 minutes West 18 perches (297 feet), (6) South 85 degrees West 13 14/25 perches (223.7 feet), (7) South 60 degrees 30 minutes West 27 18/25 perches (457.40 feet), and (8) North 46 degrees 45 minutes West 51 perches (841.5 feet) to intersect the 8th or North 34 degrees 10 minutes East 1952.05 foot line of the First Parcel, thence running with part of said 8th line reversed South 34 degrees 10 minutes West approximately 1194 feet to the said East side of the Indian Head Naval Reservation Access Road, thence running with the said side of said road approximately 1325 feet to the point of beginning. Including all of the subdivision known as Section 8, "Forest Heights," as per plats thereof recorded among the Land Records of Prince George's County, Maryland, in Plat Book W. W. W. 21, Folio 32 and Plat Book W. W. W. 20, Folio 95, part of the First Parcel and all of the Second Parcel above referred to and such other land subdivided or not subdivided as comes within the above defined area.

(d) *Second extension.* The boundaries of the Town of Forest Heights are hereby extended to include the following parcels of land:

(1) Beginning at an iron pipe located North 74 degrees 42 minutes East 4.33 feet from the Southeast corner of Lot 26 in Block 200 in the subdivision known as Section 10, Forest Heights, as per plat recorded in Plat Book WWW No. 19, Plat No. 15 among the Land

Records of Prince George's County, Maryland and running thence South 74 degrees 42 minutes West 1286.76 feet and running thence North 12 degrees 50 minutes 50 seconds East 375.16 feet to an iron pipe, thence North 22 degrees 19 minutes 50 seconds East 99 feet to an iron pipe, thence North 71 degrees 05 minutes 30 seconds East 722.16 feet to an iron pipe, thence North 75 degrees 15 minutes 15 seconds East 328.60 feet to an iron pipe located in the Westerly line of Chester Street as shown on the recorded plat of Section 10, Forest Heights and running thence with the Westerly side of Chester Street projected and extended South 15 degrees 18 minutes East approximately 452 feet to the place of beginning; comprising [comprising] all that portion of said Section 10, Forest Heights located West of the Westerly line of Chester Street, as projected and extended to the Southerly line of said subdivision; otherwise known as Forest Heights Elementary School.

(2) Beginning at a point in the eighth line of a deed from Rosa E. Wasney, widow, to John W. Miller, dated June 19th 1942, and being recorded among the Land Records of Prince George's County in Liber 652, Folio 394, said point of beginning being situated 150 feet measured radially from Station 879, 36.78 of the base line of Right of Way, as said base line of Right of Way is delineated on State Roads Commission's Plat No. 13600, said point of beginning being also the intersection of said eighth line with the northerly Right of Way line of the Washington Circumferential Highway, running thence and binding on a part of said northerly Right of Way line of the Washington Circumferential Highway by a curve to the left having a radius of 3014.79 feet for a distance of 615.88 feet, said curve being subtended by a chord S. 67 degrees, 37 minutes, 10 seconds West 614.81 feet to intersect a line established as the title line between the properties of the State of Maryland to the use of the State Roads Commission of Maryland and the Board of Education of Prince George's County, running thence and binding on the aforementioned title line between the State of Maryland to the use of the State Roads Commission of Maryland and the Board of Education of Prince George's County North 24 degrees, 18 minutes, 10 seconds, West 607.30 feet to intersect the sixth line of the aforementioned deed from Rosa E. Wasney, widow, to John W. Miller, running thence and binding on said sixth line North 34 degrees, 13 minutes, 50 seconds East 349.08 feet to the end thereof, thence leaving said sixth line and binding on a part of the seventh and eighth lines of the aforementioned deed from Rosa E. Wasney, widow, to John W. Miller South 50 degrees, 01 minutes, 23 seconds East 834.50 feet and South 13 degrees, 37 minutes and 30 seconds West 73.92 feet to the place of beginning, containing 8.20 acres; otherwise known as Flintstone Elementary School.

(e) *Third extension.* The boundaries of Forest Heights are hereby extended to include the following parcel of land:

Part or parcel of that certain tract of land shown in Plat recorded among the Land Records of Prince George's County, Maryland in Plat Book 22 at Plat 32, lying immediately North of Block numbered Two Hundred Three (203) and extending North 74 degrees 42 minutes East 214 feet more or less to the line of a storm drain easement; thence North 69 degrees 30 minutes West 260 feet more or less to the eastward line of Chester Way; thence South 15 degrees 18 minutes West 152 feet more or less to the northward line of Lot 1 in Block 203 at the point of beginning; containing 16,050 square feet of land, more or less.

(f) *Fourth extension.* The boundaries of Forest Heights are hereby extended to include

the following parcels of land:

Parcel #1. Beginning at an iron pipe on the south right-of-way line of the Washington Circumferential Highway (Highway Plat No. 13600 & 14599), said pipe being on the division line between Lots 6 and 7, Joseph S. Wasney's "Oxon Hill Manor," Oxon Hill District, Prince George's County, Maryland, and running with the West line of Lot 7, S 5 deg. 21 min. 30 sec. E, 771.22 feet to an iron pipe (P. CC.) on the North side of Oxon Hill Road (Highway Plat 8084), thence with said road on a curve whose Radius=289.79 feet, Delta=4 deg. 18 min. 43 sec., Arc=217.86 feet, S 75 deg. 36 min. 10 sec. W, Chord=217.80 feet to a C. S., thence with a chord spiral, S 72 deg. 14 min. 40 sec. W, 151.03 feet to a S. T., thence S 72 deg. 01 min. 50 sec. W, 83.39 feet to an iron pipe; thence leaving Oxon Hill Road and running with the East line of the Oxon Hill Lutheran Church N 20 deg. 53 min. 30 sec. W, 202.91 feet to a stone; thence N 12 deg. 05 min. 30 sec. W, 422.07 feet to an iron pipe (P. CC.); thence with the South right-of-way line of the Washington Circumferential Highway on a curve whose Radius=879.93 feet, Delta=6 deg. 51 min. 35 sec., Arc=105.35 feet, N 44 deg. 31 min. 00 sec. E, Chord=105.31 feet to an iron pipe, thence with a curve whose Radius=2714.79 feet, Delta=10 deg. 32 min. 06 sec., Arc=499.17 feet, N 64 deg. 16 min. 10 sec. E. Chord=498.47 feet to the point of beginning.

This part of Lot 6, Joseph S. Wasney's "Oxon Hill Manor" contains 8.4823 acres. Present owner is Forest Heights Baptist Church, Liber 2221 at Folio 514.

Parcel #2. Being part of the land of the State Roads Commission of Maryland as shown on Highway Plat No. 14599 and being more particularly described as follows: Beginning at a point on the South right-of-way line of the Washington Circumferential Highway, said point being the Northwest corner of the Forest Heights Baptist Church property as described in Liber 221 at Folio 514; thence N 06 deg. 21 min. 40 sec. E, 406.26 feet to the Southwest corner of the Flintstone Elementary School property, said point being located on the North right-of-way line of the Washington Circumferential Highway; thence along the North right-of-way line on a curve having a Radius=3014.79 feet, Delta=11 deg. 42 min. 17 sec. Arc=615.88 feet, Tangent=309.02 feet, Chord=614.81 feet, and a Chord Bearing of N 67 deg. 36 min. 20 sec. E to a point, said point being a corner of the Flintstone Elementary School property; thence S 14 deg. 39 min. 00 sec. W, 358.12 feet to the Northeast corner of the Forest Heights Baptist Church property, said point being on the South right-of-way line of the aforesaid highway; thence along the South right-of-way line of said highway on a curve having a Radius=2714.79 feet, Delta=10 deg. 32 min. 06 sec., Arc. [=] 499.17 feet, Tangent=250.29 feet, Chord=498.47 feet and a Chord Bearing a S 64 deg. 16 min. 10 sec. W to a point; thence continuing along the South right-of-way line on a curve having a Radius=879.93 feet, Delta=06 deg. 51 min. 35 sec., Arc=105.35 feet, Tangent=52.74 feet, Chord=105.31 feet and a Chord Bearing of S 44 deg. 31 min. 00 sec. W to the point of beginning, containing 4.1441 acres. (Ch. Res. No. 1, August 21, 1963, sec. 2.)

The Council

Section 33-3. Number; selection; term.

All legislative powers of the Town shall be vested in a Council consisting of the Mayor

and six Councilmen who shall be elected as hereinafter provided and who shall hold office for a term of two years or until the succeeding Council takes office. The regular term of Councilmen shall expire on the first Wednesday following the election and qualification of their successors. Councilmen holding office on October 10, 1963, shall continue to hold office for the term for which they were elected and until the succeeding Council takes office under the provisions of this Charter. (Ch. Res. No. 1, August 21, 1963, sec. 3.)

Section 33-4. Qualifications.

Councilmen shall have resided in the Wards of the Town they represent for at least one year immediately preceding their election, shall be qualified voters of the Town, and shall maintain a permanent residence in the Town during their term of office. (Ch. Res. No. 1, August 21, 1963, sec. 4.)

Section 33-5. Salary.

Each Councilman shall receive an annual salary as specified from time to time by an ordinance passed by the Council in the regular course of its business. Provided, however, that the salary specified at the time any Councilman takes office shall not be changed during the term for which that Councilman was elected. The ordinance making any change in the salary paid to the several Councilmen, either by way of increase or decrease, shall take effect only as the terms of the members of the Council which enacted it expire. (Ch. Res. No. 1, August 21, 1963, sec. 5.)

Section 33-6. Meetings.

The Council shall meet at 8:00 P.M. on the third Wednesday in May of each year for the purpose of organization, after which the Council shall meet the third Wednesday of each month.

Special meetings shall be called by the Town Clerk upon the request of the Mayor or at least three of the members of the Council. All meetings of the Council shall be open to the public, and the rules of the Council shall provide that residents of the Town shall have a reasonable opportunity to be heard at any meeting in regard to any municipal question. (Ch. Res. No. 1, August 21, 1963, sec. 6.)

Section 33-7. Council to be judge of qualifications of its members.

The Council shall be the judge of the qualifications, as contained in Sections 33-4 and 33-16, of its members. (Ch. Res. No. 1, August 21, 1963, sec. 7.)

Section 33-8. President.

The Mayor shall serve as Chariman of the Council. The Mayor may take part in all discussions, and shall have a vote on any question before the Council. The Council shall elect a President of the Council from among its members who shall act as Chairman of the Council in the absence of the Mayor. (Ch. Res. No. 1, August 21, 1963, sec. 8.)

Section 33–9. Quorum.

A majority of the members of the Council shall constitute a quorum for the transaction of business, but no ordinance or resolution shall be approved without the favorable votes of four members of the Council. (Ch. Res. No. 1, August 21, 1963, sec. 9.)

Section 33–10. Procedure.

The Council shall determine its own rules and order of business. It shall keep a journal of its proceedings and enter therein the yeas, nays, and abstentions upon final action on any question, resolution, or ordinance, or at any other time if required by any one member. The journal shall be open to public inspection. (Ch. Res. No. 1, August 21, 1963, sec. 10.)

Section 33–11. Vacancies.

In case of a vacancy on the Council for any reason, the Council shall elect some person qualified in accordance with Section 33–4 to fill such vacancy for the remainder of the unexpired term. Provided, that the person appointed shall reside in the same ward as his predecessor. The results of any such vote shall be recorded in the minutes of the Council. (Ch. Res. No. 1, August 21, 1963, sec. 11.)

Section 33–12. Ordinances.

No ordinance shall be passed at the meeting at which it is introduced. At any regular or special meeting of the Council held not less than six nor more than sixty days after the meeting at which an ordinance was introduced, it shall be passed, or passed as amended, or rejected, or its consideration deferred to some specified future date. In cases of emergency the above requirement may be suspended by the affirmative votes of five members of the Council. Every ordinance, unless it be passed as an emergency ordinance, shall become effective at the expiration of thirty calendar days. An emergency ordinance shall become effective on the date specified in the ordinance. A summary of each ordinance shall be published at least twice in the “Forest Heights News,” the town newsletter or in a newspaper or newspapers having general circulation in the municipality. (Ch. Res. No. 1, August 21, 1963, sec. 12.)

Section 33–13. Referendum.

If, before the expiration of thirty calendar days following passage of any ordinance, a petition is filed with the Town Clerk containing the signatures of not less than twenty per centum (20%) of the qualified voters of the Town and requesting that the ordinance, or any part thereof, be submitted to a vote of the qualified voters of the Town for their approval or disapproval, the Council shall have the ordinance, or the part thereof requested for referendum, submitted to a vote of the qualified voters of the Town at the next regular Town election or, in the Council’s discretion, at a special election occurring before the next regular election. No ordinance, or the part thereof requested for referendum, shall become effective following the receipt of such petition until and unless approved at the election by a majority of the qualified voters voting on the question. An emergency ordinance, or the part thereof requested for referendum, shall continue in effect for

sixty days following receipt of such petition. If the question of approval or disapproval of any emergency ordinance, or any part thereof, has not been submitted to the qualified voters within sixty days following receipt of the petition, then the operation of the ordinance, or the part thereof requested for referendum shall be suspended until approved by a majority of the qualified voters voting on the question at any election. Any ordinance, or part thereof, disapproved by the voters, shall stand repealed.

The provisions of this section shall be self-executing, but the Council may adopt ordinances in furtherance of these provisions and not in conflict with them. The Council may, at its discretion, require a referendum on an ordinance, without a petition being presented. (Ch. Res. No. 1, August 21, 1963, sec. 13.)

Section 33-14. Files of ordinances.

Ordinances shall be permanently filed by the Town Clerk and shall be kept available for public inspection. (Ch. Res. No. 1, August 21, 1963, sec. 14.)

The Mayor

Section 33-15. Selection and term.

The Mayor shall be elected as hereinafter provided and shall hold office for a term of two years or until his successor is elected and qualified. The newly elected mayor shall take office on the first Wednesday following his election. The Mayor holding office on October 10, 1963, shall continue to hold office for the term for which he was elected and until his successor takes office under the provisions of this Charter. (Ch. Res. No. 1, August 21, 1963, sec. 15.)

Section 33-16. Qualifications.

The Mayor shall have resided in the Town for at least one year immediately preceding his election, shall be a qualified voter of the Town, and shall maintain a permanent residence in the Town during his term of office. (Ch. Res. No. 1, August 21, 1963, sec. 16.)

Section 33-17. Salary.

The Mayor shall receive an annual salary as set from time to time by an ordinance passed by the Council in the regular course of business. Provided, however, that no change shall be made in the salary for any Mayor during the term for which he was elected. The ordinance making any change in the salary paid to the Mayor, either by way of increase or decrease, shall be finally ordained prior to the municipal election to elect the next succeeding Mayor, and shall take effect only as to the next succeeding Mayor. (Ch. Res. No. 1, August 21, 1963, sec. 17.)

Section 33-18. Powers and duties.

- (a) *Chief Executive.* The Mayor shall see that the ordinances of the Town are faithfully

executed and shall be the Chief Executive Officer, and the head of the administrative branch of the Town government.

(b) *Appointments.* The Mayor, with the approval of the Council, shall appoint the heads of all offices, departments, and agencies of the Town government as established by this Charter or by ordinance. All office, department, and agency heads shall serve at the pleasure of the Mayor. All subordinate officers and employees of the offices, departments, and agencies of the Town government shall be appointed and removed by the Mayor, in accordance with rules and regulations in any merit system which may be adopted by the Council.

(c) *Reports.* The Mayor each year shall report to the Council the condition of municipal affairs and make such recommendations as he deems proper for the public good and the welfare of the Town.

(d) *Finances; budget.* The Mayor shall have complete supervision over the financial administration of the Town government. He shall prepare or have prepared annually a budget and submit it to the Council. He shall supervise the administration of the budget as adopted by the Council. He shall supervise the disbursement of all monies and have control over all expenditures to assure that budget appropriations are not exceeded.

(e) *Other.* The Mayor shall have such other powers and perform such other duties as may be prescribed by this Charter or as may be required of him by the Council, not inconsistent with this Charter. (Ch. Res. No. 1, August 21, 1963, sec. 18.)

Section 33–19. Vacancy.

In case of a vacancy in the office of Mayor, the Council shall elect some person qualified in accordance with Section 33–17 to fill such vacancy for the remainder of the unexpired term. The results of any such vote shall be recorded in the minutes of the Council. (Ch. Res. No. 1, August 21, 1963, sec. 19; Res. No. 6, October 7, 1982.)

General Powers

Section 33–20. Listed.

(a) *General.* The Council shall have the power to pass all such ordinances not contrary to the Constitution and laws of the State of Maryland or this Charter as it may deem necessary for the good government of the Town; for the protection and preservation of the Town's property, rights, and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger, or destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the residents of the Town and visitors thereto and sojourners therein.

(b) *Specific.* The Council shall have, in addition, the power to pass ordinances not contrary to the laws and Constitution of this State, for the following specific purposes:

(1) *Advertising.* To provide for advertising for the purposes of the Town, for printing and publishing statements as to the business of the Town.

(2) *Aisles.* To regulate and prevent the obstruction of aisles in public halls, churches and places of amusement, and to regulate the construction and operation of the doors and means of egress therefrom.

(3) *Amusements.* To provide in the interest of the public welfare for licensing, regulating, or restraining theatrical or other public amusements.

(4) *Appropriations.* To appropriate municipal monies for any purpose within the powers of the Council.

(5) *Auctioneers.* To regulate the sale of all kinds of property at auction within the Town and to license auctioneers.

(6) *Billboards.* To license and regulate, restrain or prohibit the erection or maintenance of billboards within the Town, the placing of signs, bills and posters of every kind and description on any building, fence, post, billboard, pole, or other place within the Town.

(7) *Bridges.* To erect and maintain bridges.

(8) *Buildings.* To make reasonable regulations in regard to buildings and signs to be erected, constructed, or reconstructed in the Town, and to grant building permits for the same; to formulate a building code and a plumbing code and to appoint a building inspector and a plumbing inspector, and to require reasonable charges for permits and inspections; to authorize and require the inspection of all buildings and structures and to authorize the condemnation thereof in whole or in part when dangerous or insecure, and to require that such buildings and structures be made safe or be taken down.

(9) *Codification.* To provide for the codification of all ordinances which have been or may hereafter be passed.

(10) *Community Services.* To provide, maintain, and operate community and social services for the preservation and promotion of the health, recreation, welfare, and enlightenment of the inhabitants of the Town.

(11) *Cooperative activities.* To make agreements with other municipalities, counties, districts, bureaus, commissions, and governmental authorities for the joint performance of or for cooperation in the performance of any governmental functions.

(12) *Curfew.* To prohibit the youth of the Town from being in the streets, lanes, alleys, or public places at unreasonable hours of the night.

(13) *Dangerous conditions.* To compel persons about to undertake dangerous

improvements to execute bonds with sufficient sureties conditioned that the owner or contractor will pay all damages resulting from such work which may be sustained by any persons or property.

(14) *Departments.* To create, change, and abolish offices, departments, or agencies, other than the offices, departments and agencies established by this Charter; to assign additional functions or duties to offices, departments, or agencies established by this charter, but not including the power to discontinue or assign to any other office, department or agency any function or duty assigned by this Charter to a particular office, department, or agency.

(15) *Disorderly houses.* To suppress bawdy houses, disorderly houses and houses of ill fame.

(16) *Dogs.* To regulate the keeping of dogs in the Town.

(17) *Explosives.* To regulate or prevent the storage of gunpowder, oil, or any other explosive or combustible matter; to regulate or prevent the use of firearms, fireworks, bonfires, explosives, or any other similar things which may endanger persons or property.

(18) *Filth.* To compel the occupant of any premises, building or outhouse situated in the Town, when the same has become filthy or unwholesome, to abate or cleanse the condition; and after reasonable notice to the owners or occupants to authorize such work to be done by the proper officers and to assess the expense thereof against such property, making it collectible by taxes or against the occupant or occupants.

(19) *Finances.* To levy, assess, and collect ad valorem property taxes; to expend municipal funds for any public purpose; to have general management and control of the finances of the Town.

(20) *Fire.* To suppress fires and prevent the dangers thereof and to establish and maintain a fire department; to contribute funds to volunteer fire companies serving the Town; to inspect buildings for the purpose of reducing fire hazards, to issue regulations concerning fire hazards, and to forbid and prohibit the use of fire-hazardous buildings and structures permanently or until the conditions of Town fire-hazard regulations are met; to install and maintain fire plugs where and as necessary, and to regulate their use; and to take all other measures to control and prevent fires in the Town.

(21) *Food.* To inspect and to require the condemnation of, if unwholesome, and to regulate the sale of, any food products.

(22) *Franchises.* To grant and regulate franchises to electric light companies, gas companies, telegraph and telephone companies, transit companies, taxicab companies, and any others which may be deemed advantageous and beneficial to the Town, subject, however, to the limitations and provisions of Article 23 [the Public Utilities Article] of the Annotated Code of Maryland. No franchise shall be granted for a longer period than fifty years.

(23) *Gambling.* To restrain and prohibit gambling.

(24) *Garbage.* To prevent the deposit of any unwholesome substance either on private or public property, and to compel its removal to designated points; to require slops, garbage, ashes and other waste or other unwholesome materials to be removed to designated points, or to require the occupants of the premises to place them conveniently for removal.

(25) *Grants-in-Aid.* To accept gifts and grants of Federal or of State funds from the Federal or State governments or any agency thereof, and to expend the same for any lawful public purpose, agreeably to the conditions under which the gifts or grants were made.

(26) *Hawkers.* To license, regulate, suppress and prohibit hawkers and itinerant dealers, peddlers, pawnbrokers and all other persons selling any articles on the streets of the Town, and to revoke such licenses for cause.

(27) *Health.* To protect and preserve the health of the Town and its inhabitants; to appoint a public health officer, and to define and regulate his powers and duties; to prevent the introduction of contagious diseases into the Town; to establish quarantine regulations and to authorize the removal and confinement of persons having contagious or infectious diseases; to prevent and remove all nuisances; to inspect, regulate, and abate any buildings, structures, or places which cause or may cause unsanitary conditions or conditions detrimental to health; provided, that anything [nothing] herein shall be construed to affect in any manner any of the powers and duties of the State Board of Health, the County Board of Health, or any public general or local law relating to the subject of health.

(28) *Jail.* To establish and regulate a station house or lock-up for temporary confinement of violators of the laws and ordinances of the Town or to use the County jail for such purpose.

(29) *Licenses.* Subject to any restriction imposed by the public general laws of the State, to license and regulate all persons beginning or conducting transient or permanent business in the Town for the sale of any goods, wares, merchandise, or services, to license and regulate any business, occupation, trade, calling, or place of amusement or business; to establish and collect fees and charges for all licenses and permits issued under the authority of this Charter.

(30) *Liens.* To provide that any valid charges, taxes or assessments made against any real property within the Town shall be liens upon such property, to be collected as municipal taxes are collected.

(31) *Lights.* To provide for the lighting of the Town.

(32) *Livestock.* To regulate and prohibit the running at large of cattle, horses, swine, fowl, sheep, goats, dogs or other animals; to authorize the impounding, keeping, sale and redemption of such animals when found in violation of the ordinance in such cases provided.

(33) *Minor privileges.* To regulate or prevent the use of public ways, sidewalks, and public places for signs, awnings, posts, steps, railings, entrances, racks, posting handbills and

advertisements, and display of goods, wares and merchandise.

(34) *Noise.* To regulate or prohibit unreasonable ringing of bells, crying of goods or sounding of whistles and horns.

(35) *Nuisances.* To prevent or abate by appropriate ordinance all nuisances in the Town which are so defined at common law, by this Charter, or by the laws of the State of Maryland, whether the same be herein specifically named or not; to regulate, to prohibit, to control the location of, or to require the removal from the Town of all trading in, handling of, or manufacture of any commodity which is or may become offensive, obnoxious, or injurious to the public comfort or health. In this connection the Town may regulate, prohibit, control the location of, or require the removal from the Town of such things as stockyards, slaughterhouses, cattle or hog pens, tanneries, and renderies. This listing is by way of enumeration, not limitations.

(36) *Obstructions.* To remove all nuisances and obstructions from the streets, lanes and alleys and from any lots adjoining thereto, or any other places within the limits of the Town.

(37) *Parking facilities.* To license and regulate and to establish, obtain by purchase, by lease or by rent, own, construct, operate, and maintain parking lots and other facilities for off street parking.

(38) *Parks and recreation.* To establish and maintain public parks, gardens, playgrounds, and other recreational facilities and programs to promote the health, welfare, and enjoyment of the inhabitants of the Town.

(39) *Police force.* To establish, operate, and maintain a police force. All Town policemen shall, within the municipality, have the powers and authority of constables in this State.

(40) *Police powers.*

(a) To prohibit, suppress, and punish within the Town all vice, gambling, and games of chance; prostitution and solicitation therefor and the keeping of bawdy houses and houses of ill fame; all tramps and vagrants; all disorder, disturbances, annoyances, disorderly conduct, obscenity, public profanity, and drunkenness [drunkenness].

(b) To enforce all ordinances relating to disorderly conduct and the suppression of nuisances equally within the limits of the Town and beyond those limits for one half mile, or for so much of this distance as does not conflict with the powers if [of] another municipal corporation or the District of Columbia.

(41) *Property.* To acquire by conveyance, purchase of gift, real or leasable property for any public purposes; to erect buildings and structures thereon for the benefit of the Town and its inhabitants; and to convey any real or lease hold property when no longer needed for the public use, after having given at least twenty days' public notice of the proposed conveyance; to control, protect and maintain public buildings, grounds and property of the Town.

(42) *Quarantine.* To establish quarantine regulations in the interests of the public health.

(43) *Regulations.* To adopt by ordinance and enforce within the corporate limits police, health, sanitary, fire, building, plumbing, traffic, speed, parking, and other similar regulations not in conflict with the laws of the State of Maryland or with this Charter.

(44) *Sidewalks.* To regulate the use of sidewalks and all structures in, under or above the same; to require the owner or occupant of premises to keep the sidewalks in front thereof free from snow or other obstructions; to prescribe hours for cleaning sidewalks.

(45) *Sweepings.* To regulate or prevent the throwing or depositing of sweepings, dust, ashes, offal, garbage, paper, handbills, dirty liquids, or other unwholesome materials into any public way or onto any public or private property in the Town.

(46) *Taxicabs.* To license, tax, and regulate public hackmen, taxicab men, draymen, drivers, cabmen, porters and expressmen, and all other persons pursuing like occupations.

(47) *Vehicles.* To regulate and license wagons and other vehicles not subject to the licensing powers of the State of Maryland.

(48) *Voting machines.* To purchase, lease, borrow, install, and maintain voting machines for use in Town elections.

(49) *Weed control.* To protect the public health and safety by ordering the elimination of the accumulation of refuse, the growth of weeds, the presence of stagnant water or of combustible material from any unimproved lot or vacant premises within the Town. If after written notice, the owner or person in charge of any unimproved lot or vacant premises, fails to comply with such notice, the Town through its officers and agents shall have the power to enter upon the premises and cause such menace to public health and safety to be abated. Notice of the reasonable costs incurred by the Town shall be delivered or mailed to the person in charge of the property and to the person in whose name the property is assessed for taxation. If the costs shall not be paid within sixty days from the giving of such notice the Town of Forest Heights may recover the costs by civil action, or may fix a date from a hearing to determine whether the costs should be assessed against the property as a special tax. Notice of such hearing shall be posted on the property and sent by registered mail to the last known address of the person in whose name the property is assessed for taxation. If the name of the owner of the property be unknown, or the owner be a non-resident of Prince George's County, notice of the proposed assessment and of the date and place of the hearing shall be published once a week for three consecutive weeks in some newspaper having general circulation in the County. At the hearing, unless good cause to the contrary be shown, the Mayor and Council shall have authority to levy the reasonable costs incurred by the Town, together with the expense of advertising, as a special tax against the property. The assessment shall be certified by the Town Clerk to the treasurer, to be added to the annual tax bill against the property to be collected in the same manner as ordinary taxes are

collected and subject to the same interest and penalty for non-payment as provided by law for the non-payment of town taxes. Such special tax shall constitute a lien against the property from the date of the assessment until paid.

(50) *Saving clause.* The enumeration of powers in this section is not to be construed as limiting the powers of the Town to the several subjects mentioned. (Ch. Res. No. 1, August 21, 1963, sec. 20; Res. No. 6, Sept. 15, 1982.)

Section 33-21. Exercise of powers.

For the purpose of carrying out the powers granted in this subtitle or elsewhere in this Charter, the Council may pass all necessary ordinances. All the powers of the Town shall be exercised in the manner prescribed by this Charter, or, if the manner be not prescribed, then in such manner as may be prescribed by ordinance. (Ch. Res. No. 1, August 21, 1963, sec. 21.)

Section 33-22. Enforcement of powers.

(a) To ensure the observance of the ordinances of the Town, the Council shall have the power to provide that violation thereof shall be a misdemeanor and shall have the power to affix thereto penalties of a fine not exceeding five hundred dollars (\$500.00) or imprisonment for not exceeding ninety days, or both such fine and imprisonment. Any person subject to any fine, forfeiture, or penalty by virtue of any ordinance passed under the authority of this Charter shall have the right of appeal within ten days to the Circuit Court of the County in which the fine, forfeiture, or penalty was imposed. The Council may provide that, where the violation is of a continuing nature and is persisted in, a conviction for one violation shall not be a bar to a conviction for a continuation of the offense subsequent to the first or any succeeding conviction.

(b) To further ensure the observance of the ordinances of the Town, the Council shall have the power to provide that violation thereof be a municipal infraction enforceable as provided under the general laws of the State and shall have the power to affix thereto a penalty of a fine not exceeding one hundred dollars (\$100.00) for the first offense and a fine of two hundred dollars (\$200.00) for each repeat offense. (Ch. Res. No. 1, August 21, 1963, sec. 22; Res. No. 6, October 7, 1982.)

Registration, Nominations, and Elections

Section 33-23. Voters.

Every person who at the time of a Town election resides within the corporate limits of the Town, is qualified to vote in Prince George's County, Maryland, and is registered to vote with the Board of Election Supervisors for Prince George's County, Maryland, (hereinafter the County Board of Elections or County Board) shall be deemed registered and qualified to vote in that Town election. (Ch. Res. No. 1, August 21, 1963, sec. 23; Res. No. 4, April 8, 1982; Res. No. 1, May 19, 1989.)

Section 33–23A. Absentee Balloting.

Any qualified voter registered to vote in the elections of the Town of Forest Heights is entitled to vote in the municipal election by absentee ballot. The following persons may vote as an absentee voter under this Section:

- (a) Any qualified voter registered to vote who may be absent from the Town of Forest Heights on any election day.
- (b) Any qualified voter registered to vote, whose physical disability or confinement in or restriction to an institution prevents or will prevent him from being present and personally voting at the polls on any election day.
- (c) Absentee ballots must be received no later than the close of the polls on election day.

A qualified voter desiring to vote in any election by absentee ballot shall make an application in writing to the Board for an absentee ballot. The application must be received no later than 7 days before the election. The application shall contain an affidavit, which need not be under oath, but which shall set forth the information required under this Section, under penalty of perjury. The application shall contain the following information:

- (a) The voter's name and residence address;
- (b) That the person is a qualified voter at the residence given;
- (c) If the person voted at the preceding election, the residence address from which he voted; and
- (d) That the voter expects in good faith to be unable to vote in person for the reasons set forth above in (a) or (b). (Res. No. 1, April 8, 1982.)

Section 33–24. Board of Elections.

There shall be a Board of Elections (hereinafter, the Town Board of Elections, Town Board, or Board where appropriate), consisting of three members who shall be appointed by the Mayor with the approval of the Council on or before the first Monday in March in every odd numbered year. The terms of members of the Town Board of Elections shall begin on the first Monday in March in the year in which they are appointed and shall run for two years. Members of the Town Board of Elections shall be qualified voters of the Town. A person is eligible to serve as a member of the Board if the person:

- a. Is a qualified voter of the Town.
- b. Does not hold and is not a candidate for elective office in the Town during his term of office.

c. Is not the spouse, mother, father, sister, brother, son or daughter of a person who holds or is a candidate for elective office in the Town during his term of office.

d. Is able to read and interpret all pertinent election laws.

The board shall appoint one of its members as Chairman. Vacancies on the board shall be filled by the Mayor with the approval of the Council for the remainder of the unexpired term. The compensation shall be determined by the Council. (Ch. Res. No. 1, August 21, 1963, sec. 24; Res. No. 7, 1982; Res. No. 1, May 19, 1989.)

Section 33–25. Same; removal.

Any member of the Town Board of Elections may be removed for good cause by the Council. Before removal, the member of the Town Board of Elections to be removed shall be given a written copy of the charges against him and shall have a public hearing on them before the Council if he so requests within ten days after receiving the written copy of the charges against him. (Ch. Res. No. 1, August 21, 1963, sec. 25; Res. No. 1, May 19, 1989.)

Section 33–26. Same; duties.

The Town Board of Elections shall, before each town election, obtain from the County Board of Elections a list of registered voters of Prince George’s County, Maryland, who reside in the Town and check the accuracy of that list with respect to Town residency and ward residency of voters. The Town Board of Elections shall recommend any corrections required to the County Board of Elections. The Town Board shall be in charge of all of the procedures required for nomination and shall conduct all Town elections. The board may appoint election clerks or employees to assist it in any of its duties. The Town Board of Elections shall utilize the provisions of the election laws contained in Article 33 [the Election Law Article] of the Annotated Code of Maryland (1957 Edition, as amended) concerning the casting and counting of ballots and the general election procedures in so far as these provisions are applicable to elections in the Town of Forest Heights and are consistent with the provisions of this Charter. (Ch. Res. No. 1, August 21, 1963, sec. 26; Res. No. 1, May 19, 1989; Res. No. 1, May 9, 1991.)

Section 33–27. Notices.

The Town Board of Elections shall give at least two weeks notice of every election by an advertisement published in the “Forest Heights News,” the town newsletter, or in at least one newspaper of general circulation in the Town and by posting a notice thereof in some public place or places in the Town. Notice of election shall contain the purpose of the election including a description of any questions for referendum. Provided, however, that notice for run-off elections authorized in Section 33–36 need only be within one week of the election date. (Ch. Res. No. 1, August 21, 1963, sec. 27; Res. No. 1, May 19, 1989.)

Section 33–28. Time and Place of Registration.

(a) The time and place of registration of persons who qualify for voting in a town election in accordance [accordance] with Section 23 herein shall be as set forth in Section 3-1 et. seq. Article 33 [Title 3, Subtitle 4 of the Election Law Article] of the Annotated Code of Maryland [Maryland] (1957 Edition, as amended).

(b) No person shall be entitled to vote in a Town election unless he is registered in accordance with the provisions of paragraph 23 herein. Provided, however, in the Town election to be held in May, 1989, residents of the Town who have registered to vote only with the Town Board of Elections shall also be entitled to vote in accord with Town registration [registration] and voting [voting] requirements in force at the date of this Charter Amendment Resolution.

(c) All other qualifications and procedures with respect to registration of voters of the Town shall be as set forth in Sections 3-1 et. seq. of Article 33 [Title 3, Subtitle 4 of the Election Law Article] of the Annotated Code of Maryland (1957 Edition as amended).

(d) *Ward registration.* It shall be the duty of the Town Board of Elections to furnish the County Board of Elections with all information necessary to designate registered voters of the Town as to the respective wards in the Town in which they reside.

(e) *Council powers.* The Mayor and Town Council shall adopt [adopt], by ordinance, provisions concerning the eligibility of residents of the Town to vote in Town elections which are consistent with the authority provided by Article 33 [the Election Law Article] of the Annotated Code of Maryland (1957 Edition as amended) including Section 3-2(d) thereof concerning universal registration. (Ch. Res. No. 1, August 21, 1963, sec. 28; Res. No. 5, April 8, 1982; Res. No. 1, May 19, 1989.)

Section 33-29. Appeals.

If any person shall feel aggrieved by any action of the Town Board of Elections, such person may appeal to the Council by giving notice in writing to the Town Clerk within fifteen (15) days of the action taken by the Town Board of Elections. Any decision or action of the Council upon such appeals may be appealed to the Circuit Court for Prince George's County within thirty days of the decision or action of the Council. (Ch. Res. No. 1, August 21, 1963, sec. 29; Res. No. 1, May 19, 1989.)

Section 33-30. Election wards.

For the purpose of the elections, the Town of Forest Heights shall be divided into three wards. The limits and boundaries of each ward shall be as follows:

(1) *First Ward* — The First Ward shall comprise that part of the Town east of the Indian Head Highway (Maryland State Route 210) and north of Quade Street, including those residences on the north side of Quade Street.

(2) *Second Ward* — The Second Ward shall comprise that part of the Town east of the Indian Head Highway (Maryland State Route 210) and south of Quade Street, including those

residences on the south side of Quade Street; and that part of the Town west of the Indian Head Highway (Maryland State Route 210); east of Black Hawk Drive including those residences on the east side of Black Hawk Drive and including those residences on Cree Drive that are east of Black Hawk Drive if that Drive were extended to the southern limits of the Town; east of Woodland Drive between Black Hawk Drive and Mohican Drive including those residences on the east side of Woodland Drive; and north of Mohican Drive including those residences on the north side of Mohican Drive and including those residences on Huron Drive that are north of Mohican Drive if that Drive were extended to the western limits of the Town.

(3) *Third Ward* — The third Ward shall comprise that part of the Town southwest of the boundary of the Second Ward, that is the part of the Town west of Black Hawk Drive including those residences on the west side of Black Hawk Drive and those residences on Cree Drive that are west of Black Hawk Drive if that Drive were extended to the southern limits of the Town; west of Woodland Drive between Black Hawk Drive and Mohican Drive including those residences of the west side of Woodland Drive; and south of Mohican Drive including those residences on the south side of Mohican Drive and including those residences on Huron Drive that are south of Mohican Drive if [if] that Drive were extended to the western limits of the Town. (Ch. Res. No. 1, August 21, 1963, sec. 30.)

Section 33–31. Nominations.

Persons may be nominated for elective office in the Town by filing a certificate of nomination with the Town Clerk on or before the first Wednesday in April preceding the Town election. Such certificate shall state (1) the office for which the person is seeking, (2) the name and signature of the candidate, (3) the ward in which the person resides, (4) a statement that he meets the qualifications for the office as contained in this charter. No person shall file for nomination to more than one elective Town public office or hold more than one elective Town public office at any one time. The Town Board of Elections shall review each certificate of nomination and shall certify that the candidate meets the qualifications contained in this Charter. Any certificate of a candidate, that in the Board's judgment does not meet the stated qualifications, shall be returned to the candidate with the reasons for the return stated thereon. (Ch. Res. No. 1, August 21, 1963, sec. 31; Res. No. 1, May 19, 1989.)

Section 33–32. Election of Mayor.

On the second Wednesday of May in 1965 and every odd year thereafter, one person shall be elected at large to serve as Mayor for a two year term. (Ch. Res. No. 1, August 21, 1963, sec. 32.)

Section 33–33. Election of Councilmen.

On the second Wednesday of May in 1964 and every odd year thereafter, one person from each Ward shall be elected by the qualified voters of his Ward to serve as Councilman for a two year term.

On the Second Wednesday of May in 1965 and every even year thereafter, one person from each Ward shall be elected by the qualified voters of his Ward to serve as Councilman for a two year term. (Ch. Res. No. 1, August 21, 1963, sec. 33.)

Section 33–34. Conduct of elections.

(a) *Non–partisan.* All municipal elections shall be conducted on a non–partisan basis, and no ballot shall carry any party affiliation.

(b) *Voting places and ballots.* It shall be the duty of the Town Board of Elections to provide for each special and general election a suitable place or places for voting and suitable ballot boxes and ballots and/or voting machines. The ballots and/or voting machines shall show the name of each candidate nominated for elective office in accordance with the provisions of this Charter, arranged in alphabetical order by office or by Wards for Councilmen. If ballots are used, the Board shall prepare a separate ballot for each Ward containing the names of the candidates for Mayor and for Councilman from that particular Ward. Write–in votes shall be permitted.

(c) *Hours.* The Town Board of Elections shall keep the polls opened from 11:00 a.m. to 8:00 p.m. on election days, or for longer hours if the Mayor and Council require it. (Ch. Res. No. 1, August 21, 1963, sec. 34; Res. No. 1, May 19, 1989.)

Section 33–35. Special elections.

All special Town elections shall be conducted by the Town Board of Elections in the same manner and with the same personnel, as far as practicable, as regular Town elections. (Ch. Res. No. 1, August 21, 1963, sec. 35; Res. No. 1, May 19, 1989.)

Section 33–36. Vote count.

Immediately after the closing of the polls, the Board of Registrations and Elections shall determine the vote cast for each candidate or question and shall certify the results of the election to the Town Clerk who shall record the results in the minutes of the Council. The candidate for Mayor with the highest number of votes in the general election shall be declared elected as Mayor. The candidate for Councilman in each ward with the highest number of votes in the general election shall be declared elected as Councilman. In case of a tie vote, the Mayor and Council shall order and provide for a run–off election between the tied candidates within twenty–one (21) days thereafter. (Ch. Res. No. 1, August 21, 1963, sec. 36.)

Section 33–37. Preservation of ballots.

All ballots and records used in any Town election shall be preserved for at least six months from the date of the election. (Ch. Res. No. 1, August 21, 1963, sec. 37.)

Section 33–38. Regulation and control.

The Council shall have the power to provide by ordinance in every respect not covered by

the provisions of this Charter for the conduct of registration, nomination, and Town elections and for the prevention of fraud in connection therewith, and for a recount of ballots in case of doubt or fraud. (Ch. Res. No. 1, August 21, 1963, sec. 38.)

Section 33–39. Penalties.

Any person who (1) fails to perform any duty required of him under the provisions of this subtitle or any ordinances passed thereunder, (2) in any manner wilfully or corruptly violates any of the provisions of this subtitle or any ordinances passed thereunder, or (3) wilfully or corruptly does anything which will or will tend to affect fraudulently any registration, nomination, or Town election, shall be deemed guilty of a misdemeanor. Any officer or employee of the Town government who is convicted of a misdemeanor under the provisions of this section shall immediately upon conviction thereof cease to hold such office or employment. (Ch. Res. No. 1, August 21, 1963, sec. 39.)

Finance

Section 33–40. Treasurer; appointment, compensation.

There shall be a Treasurer appointed by the Mayor with the approval of the Council. He shall serve at the pleasure of the Council. His compensation shall be determined by the Council. The Treasurer shall be the financial officer of the Town. The financial powers of the Town, except as otherwise provided by this Charter, shall be exercised by the Treasurer under the direct supervision of the Mayor. (Ch. Res. No. 1, August 21, 1963, sec. 40.)

Section 33–41. Same; powers and duties.

Under the supervision of the Mayor, the Treasurer shall have authority and shall be required to:

- (1) Prepare at the request of the Mayor an annual budget to be submitted by the Mayor to the Council.
- (2) Supervise and be responsible for the disbursement of all moneys as directed by the Mayor and Council and establish controls over all expenditures to assure that budget appropriations are not exceeded.
- (3) Maintain a general accounting system for the Town in such form as the Council may require, not contrary to State law.
- (4) Submit at the end of each fiscal year, and at such other times as the Council may require, a complete financial report to the Council through the Mayor.
- (5) Ascertain that all taxable property within the Town is assessed for taxation.

(6) Collect all taxes, special assessments, license fees, liens, and all other revenues of the Town, and all other revenues for whose collection the Town is responsible, and receive any funds receivable by the Town.

(7) Have custody of all public moneys, belonging to or under the control of the Town, except as to funds in the control of any set of trustees, and have custody of all bonds and notes of the Town.

(8) Do such other things in relation to the fiscal or financial affairs of the Town as the Mayor or the Council may require or as may be required elsewhere in this Charter. (Ch. Res. No. 1, August 21, 1963, sec. 41.)

Section 33–42. Same; bond.

The Treasurer shall provide a bond with such corporate surety and in such amount as the Mayor and Council by ordinance may require. (Ch. Res. No. 1, August 21, 1963, sec. 42.)

Section 33–43. Fiscal year.

The Town shall operate on an annual budget. The fiscal year of the Town shall begin on the first day of January and shall end on the last day of December in each year. Such fiscal year shall constitute the tax year, the budget year, and the accounting year. Provided, however, that by July 1, 1966, the fiscal year, tax year, budget year, and accounting year shall begin on the first day of July and shall end on the last day of June so as to comply with the requirements of Chapter 825, Laws of Maryland, 1963. (Ch. Res. No. 1, August 21, 1963, sec. 43.)

Section 33–44. Budget; preparation.

The Mayor, on such date as the Council shall determine, but at least thirty–two days before the beginning of any fiscal year, shall submit a budget to the Council. The budget shall provide a complete financial plan for the budget year and shall contain estimates of anticipated revenues and proposed expenditures for the coming year. The total of the anticipated revenues shall equal or exceed the total of the proposed expenditures. The budget shall be a public record in the office of the Treasurer, open to public inspection by anyone during normal business hours. (Ch. Res. No. 1, August 21, 1963, sec. 44.)

Section 33–45. Same; adoption.

Before adopting the budget the Council shall hold a public hearing thereon after two weeks notice thereof in some newspaper or newspapers having general circulation within the municipality. The Council may insert new items or may increase or decrease the items of the budget. Where the Council shall increase the total proposed expenditures it shall also increase the total anticipated revenues in an amount at least equal to such total proposed expenditures. The budget shall be prepared and adopted in the form of a resolution. A favorable vote of at least four members of the Council shall be necessary for adoption. (Ch. Res. No. 1, August 21, 1963, sec. 45.)

Section 33-46. Appropriations.

No public money may be expended without having been appropriated by the Council. From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes named therein. (Ch. Res. No. 1, August 21, 1963, sec. 46.)

Section 33-47. Transfer of funds.

Any transfer of funds between major appropriations for different purposes by the Mayor must be approved by the Council before becoming effective. (Ch. Res. No. 1, August 21, 1963, sec. 47.)

Section 33-48. Over-expenditures forbidden.

No officer or employees shall during any budget year expend or contract to expend any money or incur any liability or enter into any contract which by its terms involves the expenditure of money for any purpose, in excess of the amounts appropriated for or transferred to that general classification of expenditure pursuant to this Charter. Any contract, verbal or written, made in violation of this Charter shall be null and void. Nothing in this section contained, however, shall prevent the making of contracts or the spending of money for capital improvements to be financed in whole or in part by the issuance of bonds, nor the making of contracts of lease or for services for a period exceeding the budget year in which such contract is made, when such contract is permitted by law. (Ch. Res. No. 1, August 21, 1963, sec. 48.)

Section 33-49. Appropriations lapse.

All appropriations shall lapse at the end of the budget year to the extent that they shall not have been expended or lawfully encumbered. Any unexpended and unencumbered funds shall be considered a surplus at the end of the budget year and shall be included among the anticipated revenues for the next succeeding budget year. (Ch. Res. No. 1, August 21, 1963, sec. 49.)

Section 33-50. Checks.

All checks issued in payment of salaries or other municipal obligations shall be issued and signed by the Treasurer and shall be countersigned by the Mayor. (Ch. Res. No. 1, August 21, 1963, sec. 50.)

Section 33-51. Taxable property.

All real property and all tangible personal property within the corporate limits of the Town, or personal property which may have a situs there by reason of the residence of the owner therein, shall be subject to taxation for municipal purposes, and the assessment used shall be the same as that for State and County taxes. Provided, however, that household furniture and effects held for household use of the owners or members of his family, and not held or employed for the purposes

of profit or in connection with any business, profession, or occupation shall not be subject to taxation for municipal purposes. No authority is given by this section to impose taxes on any property which is exempt from taxation by any Act of the General Assembly. (Ch. Res. No. 1, August 21, 1963, sec. 51.)

Section 33-52. Budget authorizes levy.

From the effective date of the budget, the amount stated therein as the amount to be raised by the property tax shall constitute a determination of the amount of the tax levy in the corresponding tax year. (Ch. Res. No. 1, 1963, sec. 52; Ch. Res. No. 2, January 19, 1966 (See note (2)); Res. May 8, 1969; Res. No. 2, Sept. 15, 1982.)

Section 33-53. Notice of tax levy.

Immediately after the levy is made by the Council in each year, the Treasurer shall give notice of the making of the levy by posting a notice thereof in some public place or places in the Town. He shall make out and mail or deliver in person to each taxpayer or his agent at his last known address a bill or account of the taxes due from him. This bill or account shall contain a statement of the amount of real and personal property with which the taxpayer is assessed, the rate of taxation, the amount of taxes due, and the date on which the taxes will bear interest. Failure to give or receive any notice required by this section shall not relieve any taxpayer of the responsibility to pay on the dates established by this Charter all taxes levied on his property. (Ch. Res. No. 1, August 21, 1963, sec. 53.)

Section 33-54. When taxes are overdue.

The taxes provided for in Section 33-52 of this Charter shall be due and payable on the dates specified, and with interest as specified in Article 81, Section 48 (see note (3)), of the Annotated Code of Maryland, as the provisions of that Article and Section may be amended from time to time. (Ch. Res. No. 1, August 21, 1963, sec. 54; Res. 1, 8-3-83.)

Section 33-55. Tax sales.

A list of all property on which the Town taxes have not been paid and which are in arrears as provided by Section 33-54 of this Charter shall be turned over by the Treasurer to the official of the County responsible for the sale of tax delinquent property as provided in State law. All property listed thereon shall if necessary be sold for taxes by this County official, in the manner prescribed by State law. (Ch. Res. No. 1, August 21, 1963, sec. 55.)

Section 33-56. Fees.

All fees received by an officer or employee of the Town government in his official capacity shall belong to the Town government and be accounted for to the Town. (Ch. Res. No. 1, August 21, 1963, sec. 56.)

Section 33–57. Audits.

The financial books and accounts of the Town shall be audited annually by a certified public accountant selected by the Mayor and Council. (Ch. Res. No. 1, August 21, 1963, sec. 57.)

Section 33–58. Tax anticipation borrowing.

During the first six months of any fiscal year, the Town shall have the power to borrow in anticipation of the collection of the property tax levied for that fiscal year, and to issue tax anticipation notes or other evidences of indebtedness as evidence of such borrowing. Such tax anticipation notes or other evidences of indebtedness shall be a first lien upon the proceeds of such tax and shall mature and be paid not later than six months after the beginning of the fiscal year in which they are issued. No tax anticipation notes or other evidences of indebtedness shall be issued which will cause the total tax anticipation indebtedness of the Town to exceed fifty per centum (50%) of the property tax levy for the fiscal year in which such notes or other evidences of indebtedness are issued. All tax anticipation notes or other evidences of indebtedness shall be authorized by resolution before being issued. The Council shall have the power to regulate all matters concerning the issuance and sale of tax anticipation notes. (Ch. Res. No. 1, August 21, 1963, sec. 58.)

Section 33–59. General obligation borrowing power.

(a) The Town shall have the power to borrow money for any proper public purpose and to evidence such borrowing by the issue and sale of its general obligation bonds, notes or other evidences of indebtedness in the manner prescribed in this section.

(b) All general obligation bonds, notes or other evidences of indebtedness issued under the provisions of this section shall be authorized by an ordinance that shall contain: (1) a statement of the maximum aggregate principal amount of such obligations to be issued; (2) a statement of the purpose or purposes for which the proceeds of such obligations are to be expended; (3) a pledge of the security for such obligations and, if applicable, a statement that such obligations shall be payable in the first instance from a specified source of revenue or provisions for the making of such statement by resolution; and (4) a requirement that, subject to the provisions of subsection (d) below, prior to the issuance of any such obligations, the Council shall adopt a resolution in accordance with the provisions of subsection (c) below.

(c) Prior to issuing any such obligations identified in subsection (b) above, the Council shall adopt a resolution containing, determining or providing for the determination of, or approving or providing for the approval of: (1) the designation, date of issue, denomination or denominations, form or forms and tenor of such obligations; (2) the rate or rates of interest payable on such obligations (which may be fixed or variable or may be determined by a method approved or provided for); (3) the date or dates and amount or amounts of maturity, which may be in any denomination and which may be in serial and/or term maturities or otherwise payable in installment, and which need not be payable annually; (4) the manner of selling such obligations, which may be either by solicitation of competitive bids at public sale after publication or dissemination of the notice of sale or a summary thereof or by private (negotiated) sale without

advertisement or solicitation of competitive bids; (5) the price or prices of such obligations, which may be at, above or below par value; (6) any desired provisions relating to the redemption or put of such obligations prior to maturity (which may be at, above or below par value), and the manner of publishing or otherwise giving notice of such redemption or put; (7) the manner of executing and sealing such obligations, which may be by facsimile; (8) any documents pursuant to which such obligations are to be issued or secured, including, without limitation, agreements with banks, fiduciaries, insurers or others for the purpose of enhancing the marketability of or as security for such obligations and for securing any tender option granted to the holders thereof; and (9) such other provisions regarding the terms, conditions, issuance, sale, delivery and security of and for such obligations as the Council may determine necessary or desirable, including, without limitation, whether such obligations shall be sold for cash or other valuable consideration or further specifying the purposes for which such obligations are to be expended (within the limitations set forth in the applicable ordinance). By resolution the Council may delegate to a specified official or officials the authority to approve any matters or make any determinations contemplated by this subsection (c). A resolution adopted pursuant to this subsection (c) may be introduced and adopted at a single session of the Council and shall become effective immediately upon adoption or upon the date specified in such resolution.

(d) The Council may, at its option, determine or provide for the determination of, or approve or provide for the approval of, any of the matters referenced in subsection (c) above by ordinance instead of by resolution.

(e) In connection with any sale of general obligation bonds, notes or other evidences of indebtedness by the solicitation of competitive bids at public sale, any such competitive bids may be delivered by electronic and/or facsimile means and/or by any other then-commercially reasonable manner for the public sale of municipal obligations by competitive bid; and any notice of sale may be published solely in summary form in a newspaper of general circulation in the town and/or in a generally recognized financial journal such as the Bond Buyer, or any notice of sale, rather than being published in full or summary form, may be made available solely via the Internet or by other electronic means and/or by any other then-commercially reasonable manner for the sale of municipal obligations, all as determined by the Council by resolution or ordinance in accordance with the provisions of subsection (c) or subsection (d) above, as applicable. To the extent the Council determines to publish the notice of sale in full or summary form, any such publication need only be made once at least seven (7) days before the initial date fixed for sale.

(f) The power conferred on the Town under this section shall be deemed to be additional and supplemental to any other general obligation borrowing authority granted to the Town by Maryland, Town or federal law, and the Town may authorize, issue and secure any such general obligation debt in conformity with this section and/or any other applicable law.

(g) The principal amount of Town general obligation bonds, notes or other evidences of indebtedness issued under this section or other applicable law and outstanding at the time of any such newly issued obligations shall not exceed four per centum (4%) of the assessed valuation of all real property in the Town. (Ch. Res. No. 1, August 21, 1963, sec. 59; Res., October 9, 1969; Res. No. 04-13, September 24, 2013.)

Section 33–60. Referendum on storm drainage improvements.

In any one fiscal year the Town shall not issue general obligation bonds, notes or other evidences of indebtedness for storm water or surface drainage improvements in principal amount in excess of two per centum (2%) of the assessed valuation of all real property in the Town unless submitted to a referendum of the qualified voters of the Town and approved by a majority of those persons voting on the question. The referendum may be held at a regular municipal election or at a special election called for that purpose. If the majority of the qualified voters voting on the question vote in favor of the bond issue, then the bonds may be issued. If the majority of the qualified voters voting on the question vote against the bond issue, the Mayor and Council shall abandon the same, and no similar proposition shall again be submitted to referendum until at least one year shall have elapsed from the date of election at which said proposition was disapproved. (Ch. Res. No. 1, August 21, 1963, sec. 60; Res. No. 04–13, September 24, 2013.)

Section 33–61. Payment of indebtedness.

The power and obligation of the Town to pay any and all bonds, notes, or other evidences of indebtedness issued by it under the authority of this Charter shall be unlimited and the Town may levy either ad valorem taxes or special assessments upon all taxable property of the Town or portion thereof for the payment of such bonds, notes, or other evidences of indebtedness and interest thereon, without limitation of amount. The faith and credit of the Town is hereby pledged for the payment of the principal of and the interest on all bonds, notes, or other evidences of indebtedness, hereafter issued under the authority of this Charter, whether of [or] not such pledge be stated in the bonds, notes, or other evidences of indebtedness, or in the ordinance or resolution authorizing their issuance. (Ch. Res. No. 1, August 21, 1963, sec. 61.)

Section 33–62. Previous issues.

All bonds, notes, or other evidences of indebtedness validly issued by the Town previous to October 10, 1963, and all ordinances or resolutions passed concerning them are hereby declared to be valid, legal, and binding and of full force and effect as if herein fully set forth. (Ch. Res. No. 1, August 21, 1963, sec. 62.)

Section 33–63. Purchases and contracts.

(a) *Competitive bids.* All purchases and contracts for the Town government shall be made by the Mayor and Council. The Council may provide by ordinance for rules and regulations regarding the use of competitive bidding and contracts for all Town purchases and contracts.

(b) *Over \$10,000.* All expenditures for supplies, materials, equipment, construction of improvements, or contractual service involving more than ten thousand dollars (\$10,000.00) shall be made on written contract. The Mayor and Council shall be required to advertise for sealed bids for all such written contracts.

(c) *Award of bids.* Such written contracts shall be awarded to the bidder who offers the lowest or best bid, quality of goods and work, time of delivery or completion, and responsibility

of bidders being considered. All such written contracts shall be approved by the Council before becoming effective. The Mayor and Council shall have the right to reject all bids and readvertise. The Town at any time in its discretion may employ its own forces for the construction or reconstruction of public improvements without advertising for (or readvertising for) or receiving bids.

(d) *Surety bonds.* All written contracts may be protected by such bonds, penalties, and conditions as the Town may require.

(e) *Exceptions.* All contracts involving professional services such as accounting, architecture, auditing, engineering, law, planning, and surveying, shall not be on a bid basis, but shall be negotiated by the Council.

(f) *Cooperative Purchasing.* In the event the State of Maryland, Prince George's County, or any other local government of the State of Maryland, the Metropolitan Washington Council of Governments, or one (1) of its member governments, or the U.S. Communities Government Purchasing Alliance, or any association of Maryland local governments, provided that such local government or association has adopted procurement regulations that are comparable to those enacted by the town, has conducted a bid and awarded a contract authorizing local governments to purchase a bid item at the bid price, the Mayor and Council may, without soliciting bids, purchase the item in question at the bid price from the successful bidder, if the Mayor and Council determines [determine] that the bid price is competitive. The Mayor shall, at least seven days prior to purchasing a service or goods pursuant to this subsection, [and] receive affirmative approval of at least [at least] 4 councilpersons prior to making purchase. No single cooperative purchase shall exceed \$25,000 without a waiver by the Council of the bidding process required by this section for good cause shown.

(g) *Waivers.* The Mayor and Council by a two-thirds vote may waive the competitive bidding requirements of this section for good cause shown for sole source procurements of unique products and services. Written findings as to the basis of such waiver shall be placed in the journal of the Council's proceedings. (Ch. Res. No. 1, August 21, 1963, sec. 63; Res., October 9, 1969; Res. No. 34, December 29, 2009.)

Personnel

Section 33–64. Town Clerk.

The Mayor, with the approval of the Council, shall appoint a Town Clerk. The Town Clerk shall attend the meetings of the Council and shall keep a full and accurate record of the proceedings of the Council. He shall be custodian of the official records (other than the records of the Treasurer and the Board of Registrations and Elections) of the Town and shall perform such other duties as may be required by the Mayor and Council. The Town Clerk may be the same person as the Treasurer. (Ch. Res. No. 1, August 21, 1963, sec. 64.)

Section 33–65. Town Attorney.

The Mayor with the approval of the Council shall appoint a Town Attorney. The Town Attorney shall be a member of the bar of the Maryland Court of Appeals. The Town Attorney shall be the legal adviser of the Town and shall perform such duties in this connection as may be required by the Council or the Mayor. His compensation shall be determined by the Council. The Town shall have the power to employ such legal consultants as it deems necessary from time to time. (Ch. Res. No. 1, August 21, 1963, sec. 65.)

Section 33–66. Other personnel.

The Town shall have the power to employ such officers and employees as it deems necessary to execute the powers and duties provided by this Charter or other State law and to operate the Town Government. (Ch. Res. No. 1, August 21, 1963, sec. 66.)

Section 33–67. Merit system.

The Mayor and Council may provide by ordinance for a merit system for Town employees. (Ch. Res. No. 1, August 21, 1963, sec. 67.)

Section 33–68. Retirement system.

The Town shall have the power to do all things necessary to include its officers and employees, or any of them, within any retirement system or pension system under the terms of which they are admissible, and to pay the employer's share of the cost of any such retirement or pension system out of the general funds of the Town. (Ch. Res. No. 1, August 21, 1963, sec. 68.)

Section 33–69. Compensation of employees.

The compensation of all officers (except the Mayor and Councilmen) and employees of the Town shall be set from time to time by a resolution passed by the Council. (Ch. Res. No. 1, August 21, 1963, sec. 69.)

Section 33–70. Employees' benefit programs.

The Town is authorized and empowered, by ordinance, to provide for or participate in hospitalization or other forms of benefit or welfare programs for its officers and employees, and to expend public monies of the Town for such programs. (Ch. Res. No. 1, August 21, 1963, sec. 70.)

Section 33–71. Conflicts of interest.

(a) *Restriction.* No person shall hold more than one Town office or position at any one time (excepting the Treasurer may be appointed as Town Clerk) nor shall any person holding any Town office or position have outside business interests in commercial or other enterprises doing business with the Town. For the purposes of this Section, Town office or position shall mean all

elective, or appointive positions in the Town with no distinction made between paid or unpaid offices or positions.

(b) *Penalty provisions.* Any person who by himself or with others wilfully or corruptly violates any of the provisions of this section shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than one hundred dollars (\$100.00), or by imprisonment for a term not exceeding thirty days, or by both such fine and imprisonment. Any person who is convicted under this section shall for a period of five years be ineligible for appointment to or employment in a position in the Town service, and shall, if he be an officer or employee of the Town, immediately forfeit the office or position he holds. (Ch. Res. No. 1, August 21, 1963, sec. 71.)

Public Ways and Sidewalks

Section 33–72. Public ways; definition.

The term “public ways” as used in this Charter shall include all streets, avenues, roads, highways, public thoroughfares, lanes, and alleys. (Ch. Res. No. 1, August 21, 1963, sec. 72.)

Section 33–73. Same; control.

The Town shall have control of all public ways in the Town except such as may be under the jurisdiction of the State Roads Commission of Maryland or Prince George’s County. Subject to the laws of the State of Maryland and this Charter, the Town may do whatever it deems necessary to establish, operate, and maintain in good condition the public ways of the Town. (Ch. Res. No. 1, August 21, 1963, sec. 73.)

Section 33–74. Same; powers.

The Town shall have the power:

- (1) To establish, regulate, and change from time to time the grade lines, width, and construction materials of any Town public way or part thereof, bridges, curbs, and gutters.
- (2) To grade, lay out, construct, open, extend, and make new Town public ways.
- (3) To grade, straighten, widen, alter, improve, or close up any existing Town public way or part thereof.
- (4) To pave, surface, repave, or resurface any Town public way or part thereof.
- (5) To install, construct, reconstruct, repair, and maintain curbs and/or gutters along any Town public way or part thereof.
- (6) To construct, reconstruct, maintain, and repair bridges.

(7) To have surveys, plans, specifications, and estimates made for any of the above activities or projects or parts thereof. (Ch. Res. No. 1, August 21, 1963, sec. 74.)

Section 33–75. Sidewalks.

The Town shall have the power:

(1) To establish, regulate, and change from time to time the grade lines, width, and construction materials of any sidewalk or part thereof on Town property along any public way or part thereof.

(2) To grade, lay out, construct, reconstruct, pave, repave, repair, extend, or otherwise alter sidewalks on Town property along any public way or party [part] thereof.

(3) To require that the owners of any property abutting on a sidewalk keep the sidewalk clear of all ice, snow, and other obstructions. (Ch. Res. No. 1, August 21, 1963, sec. 75.)

Section 33–76. Petitions for public improvements.

(a) *Authorized.* The Council, in its discretion or upon petition of at least twenty–five per centum (25%) but in no case less than two of the abutting property owners, shall have the power to authorize improvements to the public ways, curbs, gutters, or sidewalks, the cost of which is chargeable to the abutting property owners, subject to the provisions hereinafter outlined in Section 33–76(b). If the Council receives a petition signed by at least fifty–one per centum (51%) of the abutting property owners requesting an improvement to the public ways, curbs, gutters, or sidewalks, the cost of which is chargeable to the abutting property owners, the Council need not comply with the provisions of subsection (b) of Section 33–76 but must comply with the provisions of Section 33–79. For the purpose of such petitions only one person may sign for each parcel of property. For the purpose of this section “improvements” shall be construed to mean “construction,” or “reconstruction.”

(b) *Procedure.* The procedure to be followed by the Council in authorizing such an improvement shall be as follows:

(1) A public hearing shall be held on the proposed improvement. The Town Clerk shall cause notice of the hearing to be given by sending a copy thereof by mail to the owner of record and by publication of a copy of the notice at least once in the “Forest Heights News,” the town newsletter, or in a newspaper of general circulation in the Town. Such notice shall contain the date and time of the hearing, the nature of the proposed improvement, the limits of the area of the improvement, and the estimated cost of the improvement.

(2) At the hearing the property owners or their agents or attorneys may appear before the Council and be heard concerning the proposed improvement.

(3) Following the public hearing, the Council shall make a determination concerning authorization of the proposed improvement. The Town Clerk shall cause notice of the Council's action to be given by sending a copy thereof by mail to the owner of record and by publication of a copy of the notice at least once in the "Forest Heights News," the town newsletter, or in a newspaper of general circulation in the Town. Such notice shall contain the action taken by the Council, and if the Council authorized the improvement, the notice shall contain the nature of the improvement, the limits of the area of the improvement, and the cost of the improvement presented in such a manner that a property owner concerned could determine his share of the cost of the project.

(4) If the Council authorized the proposed improvement, the property owners abutting the proposed improvement and chargeable with the costs thereof may initiate a petition to prevent the authorized improvement from being accomplished. For the purpose of this petition, only one person may sign for each parcel of property.

(5) If such a petition, signed by at least fifty-one per centum (51%) of the property owners concerned, is presented to the Council within thirty (30) days from the date of notice of the Council's authorization of the proposed improvement, the Council shall not accomplish the improvement for at least twelve (12) months. After this twelve (12) month period, the Council or the property owners may propose that the same improvement be authorized, provided that the provisions of this section are complied with. (Ch. Res. No. 1, August 21, 1963, sec. 76.)

Storm Water Sewers

Section 33-77. Storm water sewers.

The Town shall have the power to enter into agreements with other governmental agencies concerning the construction, operation, and maintenance of a storm water drainage system and storm water sewers. (Ch. Res. No. 1, August 21, 1963, sec. 77.)

Special Assessments

Section 33-78. Powers.

The Town shall have the power to levy and collect taxes in the form of special assessments upon property in a limited and determinable area for special benefits conferred upon such property by the installation or construction, of storm water sewers, flood controls, curbs, and gutters and by the construction, and paving of public ways and sidewalks or parts thereof, and to provide for the payment of all or any part of the above projects out of the proceeds of such special assessment. The cost of any project to be paid in whole or in part by special assessments may include the direct cost thereof, the cost of any land acquired for the project, the interest on bonds, notes, or other evidences of indebtedness issued in anticipation of the collection of special assessments, a reasonable charge for the services of the administrative staff of the Town, and any other item of

cost which may reasonably be attributed to the project. (Ch. Res. No. 1, August 21, 1963, sec. 78.)

Section 33–79. Procedures.

The procedure for special assessments, whenever authorized in this Charter, shall be as follows: The procedures outlined in Section 33–76 shall be considered as part of the procedures outlined in this section.

(1) The cost of the project being charged for shall be assessed according to the front foot rule of apportionment or some other equitable basis determined by the Council.

(2) The amount assessed against any property for any project or improvement shall not exceed the value of the benefits accruing to the property therefrom, nor shall any special assessment be levied which shall cause the total amount of special assessments levied by the Town and outstanding against any property at any time, exclusive of delinquent installments, to exceed twenty-five per centum (25%) of the assessed value of the property after giving effect to the benefit accruing thereto from the project or improvement for which assessed.

(3) When desirable, the affected property may be divided into different classes to be charged different rates, but, except for this, any rate shall be uniform.

(4) All special assessment charges shall be levied by the Council by resolution. Before levying any special assessment charges, the Council shall hold a public hearing. The Town Clerk shall cause notice to be given stating the nature and extent of the proposed project, the kind of materials to be used, the estimated cost of the project, the portion of the cost to be assessed, the number of installments in which the assessment may be paid, the method to be used in apportioning the cost, and the limits of the proposed area of assessment. The notice shall also state the time and place at which all persons interested, or their agents or attorneys, may appear before the Council and be heard concerning the proposed project and special assessment. Such notice shall be given by sending a copy thereof by mail to the owner of record of each parcel of property proposed to be assessed and to the person in whose name the property is assessed for taxation and by publication of a copy of the notice at least once in the “Forest Heights News,” the town newsletter or in a newspaper of general circulation in the Town. The Town Clerk shall present at the hearing a certificate of publication and mailing of copies of the notice, which certificate shall be deemed proof of notice, but failure of any owner to receive the mailed copy shall not invalidate the proceedings. The date of hearing shall be set at least ten and not more than thirty days after the Town Clerk shall have completed publication and service of notice as provided in this section. Following the hearing the Council may vote to proceed with the project and may levy the special assessment, subject to the restrictions on projects involving public ways, curbs, gutters, and sidewalks as contained in Section 33–76(b) (4).

(5) Any interested person feeling aggrieved by the levying of any special assessment under the provisions of this section shall have the right to appeal to the Circuit Court of Prince George’s County within ten days after the levying of any assessment by the Council.

(6) Special assessments may be made payable in annual or more frequent installments

over such period of time, not to exceed ten years, and in such manner as the Council may determine. The Council shall determine on what date installments shall be due and payable. Interest may be charged on installments at the rate to be determined by the Council.

(7) All special assessment installments shall be overdue six months after the date on which they became due and payable. All special assessments shall be liens on the property and all overdue special assessments shall be collected in the same manner as Town taxes or by suit at law.

(8) All special assessments shall be billed and collected by the Town Treasurer. (Ch. Res. No. 1, August 21, 1963, sec. 79.)

Town Property

Section 33–80. Acquisition; possession; disposal.

The Town may acquire real, personal, or mixed property for any public purpose by purchase, gift, bequest, devise, lease, condemnation, or otherwise and may sell, lease, or otherwise dispose of any property belonging to the Town. All municipal property, funds, and franchises of every kind belonging to or in the possession of the Town (by whatever prior name known) on October 10, 1963, are vested in the Town, subject to the terms and conditions thereof. (Ch. Res. No. 1, August 21, 1963, sec. 80.)

Section 33–81. Condemnation.

The Town shall have the power to condemn property of any kind, or interest therein or franchise connected therewith, in fee or as an easement, within the corporate limits of the Town, for any public purpose. Any activity, project, or improvement authorized by the provisions of this Charter or any other State law applicable to the Town shall be deemed to be a public purpose. The manner of procedure in case of any condemnation proceeding shall be that established in Article 33A [Title 12 of the Real Property Article] of the Annotated Code of the Public General Laws of Maryland (1957 Edition, as amended), title “Eminent Domain.” (Ch. Res. No. 1, August 21, 1963, sec. 81.)

Section 33–82. Town buildings.

The Town shall have the power to acquire, to obtain by lease or rent, to purchase, construct, operate, and maintain all buildings and structures it deems necessary for the operation of the Town government. (Ch. Res. No. 1, August 21, 1963, sec. 82.)

Section 33–83. Protection.

The Town shall have the power to do whatever may be necessary to protect town property and to keep all Town property in good condition. (Ch. Res. No. 1, August 21, 1963, sec. 83.)

General Provisions

Section 33–84. Oath of office.

(a) *Required; text.* Before entering upon the duties of their offices, the Mayor, the Councilmen, the Treasurer, the Town Clerk, the members of the Board of Registrations and Elections, and all other persons elected or appointed to any office of profit or trust in the Town government shall take and subscribe the following oath or affirmation: “I, _____, do swear (or affirm, as the case may be), that I will support the Constitution of the United States; and that I will be faithful and bear true allegiance to the State of Maryland, and support the Constitution and Laws thereof; and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of _____, according to the Constitution and Laws of this State.”

(b) *Procedure.* The Mayor shall take and subscribe this oath or affirmation before the Clerk of the Circuit Court for Prince George’s County or before one of the sworn deputies of the Clerk. All other persons taking and subscribing the oath shall do so before the Mayor. (Ch. Res. No. 1, August 21, 1963, sec. 84.)

Section 33–85. Surety bonds.

The Treasurer and such other officers or employees of the Town as the Mayor and Council or this Charter may require, shall give bond in such amount and with such surety as may be required by the Council. The premiums on such bonds shall be paid by the Town. (Ch. Res. No. 1, August 21, 1963, sec. 85.)

Section 33–86. Prior rights and obligations.

All right, title, and interest held by the Town, or any other person or corporation on October 10, 1963, in and to any lien acquired under any prior Charter of the Town, are hereby preserved for the holder in all respects as if this Charter had not been adopted, together with all rights and remedies in relation thereto. This Charter shall not discharge, impair, or release any contract, obligation, duty, liability, or penalty whatever existing on October 10, 1963. All suits and actions, both civil and criminal, pending, or which may hereafter be instituted for causes of action now existing or offenses already committed against any law or ordinance repealed by this Charter, shall be instituted, proceeded with, and prosecuted to final determination and judgment as if this Charter had not become effective. (Ch. Res. No. 1, August 21, 1963, sec. 86.)

Section 33–87. Misdemeanors.

(a) Every act or omission which by ordinance is made a misdemeanor under the authority of this Charter, unless otherwise provided shall be punishable by a fine not exceeding five hundred dollars (\$500.00) or imprisonment for ninety days in the County jail, or both. The party aggrieved shall have the right to appeal as is provided under the general laws of the State. Where the act or omission is of a continuing nature and is persisted in, a conviction for one offense shall not be a bar to conviction for a continuation of the offense subsequent to the first or any

succeeding conviction.

(b) Every act or omission which by ordinance is made a municipal infraction under the authority of this Charter, unless otherwise provided shall be punishable by a fine not exceeding one hundred dollars (\$100.00) for the first offense and a fine of two hundred dollars (\$200.00) for each repeat offense. Enforcement of an ordinance the violation of which is classified as a municipal infraction shall be in accordance with the general laws of the State. (Ch. Res. No. 1, August 21, 1963, sec. 87; Res. No. 6, October 7, 1982.)

Section 33–88. Gender.

Whenever the masculine gender has been used for any reason in this Charter, it shall be construed to include the feminine gender. (Ch. Res. No. 1, August 21, 1963, sec. 88.)

Section 33–89. Effect of charter on existing ordinances.

(a) *Not in conflict.* All ordinances, resolutions, rules, and regulations in effect in the Town on October 10, 1963, which are not in conflict with the provisions of this Charter shall remain in effect until changed or repealed according to the provisions of this Charter.

(b) *In conflict.* All ordinances, resolutions, rules, and regulations in effect in the Town on October 10, 1963, which are in conflict with the provisions of this Charter be and the same hereby are repealed to the extent of such conflict. (Ch. Res. No. 1, August 21, 1963, sec. 89.)

Section 33–90. Definitions.

An ordinance is defined as a legislative act of the Mayor and Council and as a regulation of a general permanent nature. A resolution is defined as an act of the Mayor and Council of temporary nature. Ordinances will be enacted only for permanent legislative items. Resolutions will be enacted for important, but non–permanent items such as budgets, tax rates, bond issues, compensation of employees, special assessments, and executive and administrative matters. (Ch. Res. No. 1, August 21, 1963, sec. 90.)

Section 33–91. Separability provisions.

If any section or part of section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such section or part of section so held invalid shall appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply. (Ch. Res. No. 1, August 21, 1963, sec. 91.)

NOTES

(1) The Charter of Forest Heights was completely revised by Charter Amendment Resolution No. 1, passed on August 21, 1963, and to become effective on October 10, 1963.

(2) Charter Resolution No. 2 was approved on referendum on May 11, 1966, by a vote of 288 to 205.

(3) See §§ 10–102 and 14–603 of the Tax – Property Article.